

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENNETH-WAYNE LEAMING,

Plaintiff,

v.

MATTHEW SAMPSON, *et al.*,

Defendants.

Case No. 2:23-cv-333 RAJ

ORDER

I. INTRODUCTION

This matter comes before the Court *sua sponte*. Dkt. # 6. For the reasons that follow, the Court **DISMISSES** the Complaint.

II. BACKGROUND

From what the Court can ascertain, Plaintiff seeks declaratory relief that there are no exceptions under the Second Amendment. Dkt. # 6. He seeks to enjoin various government officials from prohibiting Plaintiff and others from carrying arms into government buildings, including the Veterans Affairs hospitals. *Id.* Plaintiff's Complaint contains almost no factual allegations regarding Defendants.

III. DISCUSSION

The Court's authority to grant *in forma pauperis* status derives from 28 U.S.C. § 1915. Upon permitting a plaintiff to proceed *in forma pauperis*, the Court is subject to certain requirements set forth under 28 U.S.C. § 1915(e)(2)(B). Among these

1 requirements is the Court’s duty to dismiss the plaintiff’s case if the Court determines
2 that the complaint fails to state a claim upon which relief may be granted: “the court shall
3 dismiss the case at any time if the court determines that . . . the action . . . (i) is frivolous
4 or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks
5 monetary relief against a defendant who is immune from such relief.” 28 U.S.C.
6 § 1915(e)(2)(B); *see also See Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000)
7 (“[S]ection 1915(e) applies to all *in forma pauperis* complaints, not just those filed by
8 prisoners.”).

9 “The legal standard for dismissing a complaint for failure to state a claim under 28
10 U.S.C. § 1915(e)(2)(B)(ii) parallels that used when ruling on dismissal under Federal
11 Rule of Civil Procedure 12(b)(6).” *Day v. Florida*, No. 14-378-RSM, 2014 WL
12 1412302, at *4 (W.D. Wash. Apr. 10, 2014) (citing *Lopez*, 203 F.3d at 1129). Rule
13 12(b)(6) permits a court to dismiss a complaint for failure to state a claim. The rule
14 requires the court to assume the truth of the complaint’s factual allegations and credit all
15 reasonable inferences arising from those allegations. *Sanders v. Brown*, 504 F.3d 903,
16 910 (9th Cir. 2007). The plaintiff must point to factual allegations that “state a claim to
17 relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 568 (2007).
18 Where a plaintiff proceeds pro se, the court must construe the plaintiff’s complaint
19 liberally. *Johnson v. Lucent Techs. Inc.*, 653 F.3d 1000, 1011 (9th Cir. 2011) (citing
20 *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010)).

21 The “Second Amendment protects the right to keep and bear arms for the purpose
22 of self-defense.” *McDonald v. City of Chicago*, 561 U.S. 742, 749–50 (2010). But it is
23 well-settled that the right is “not unlimited.” *District of Columbia v. Heller*, 554 U.S. 570,
24 595 (2008). The Supreme Court clarified that its recognition of the Second Amendment
25 right does not “cast doubt on longstanding prohibitions on the possession of firearms by
26 felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places
27 such as schools and government buildings, or laws imposing conditions and

1 qualifications on the commercial sale of arms.” *Id.* at 626–27; accord *McDonald*, 561
2 U.S. at 786. Those prohibitions are “presumptively lawful.” *Heller*, 554 U.S. at 627 n.26.
3 Given this well-settled law, Plaintiff’s claim for relief fails.

4 **IV. CONCLUSION**

5 For the reasons stated above, the Court **DISMISSES** the complaint with leave to
6 amend. Plaintiff’s motion to add a party is **DENIED** as moot. Dkt. # 15.

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8 DATED this 13th day of July, 2023.

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11 The Honorable Richard A. Jones
12 United States District Judge
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